

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

In re:	)	Chapter 13
	)	Case No. 22-60875
Joshua Felton	)	Judge John Gustafson
	)	
	)	<b>MOTION TO FIND</b>
	)	<b>LAKE BUCKHORN PROPERTY</b>
Debtors.	)	<b>OWNERS ASSOCIATION IN</b>
	)	<b>CONTEMPT OF COURT FOR</b>
	)	<b>VIOLATING THE AUTOMATIC</b>
	)	<b>STAY</b>

Now comes the Debtors, Joshua Felton, by and through the undersigned counsel, to respectfully request this court to find Lake Buckhorn Property Owners Association to be in contempt of court for violating the automatic stay, 11 USC Section 362. Section 362(a)(5) prohibits any act to enforce a lien against property of the debtor securing a claim that arose before the petition, and section 362(a)(6) prohibits any act to collect a pre-petition debt. Lake Buckhorn has refused to issue a key card for the gated community because he is not current on his Homeowners association dues that were included in his Chapter 13 plan. Debtor and his wife are forced to drive to a secondary gate that adds an additional 3 miles to his travel each time they leave the gated community. This has caused excessive monetary damages. There have also been times when the secondary gate was not working and they had to park off premises at a local business and walk to their home.

Debtor's Chapter 13 petition was filed on August 31, 2022. Debtors properly scheduled Lake Buckhorn Property Owners Association as a Secured Creditor on Schedule D. These claims were addressed in his Confirmed Chapter 13 plan with no objection from Lake Buckhorn Property Owners Association. From August 31, 2022 until his 2023 dues came due the Debtor was forced to drive out of his way to a different gate because he was denied access to the key card that would allow him to use the gate that is closer to his home. On March 15, 2023 his dues for 2023 came due, but he did fail to pay them until August 17, 2023. He was again denied his key card for the main gate

on August 17, 2023. Counsel previously called and left voice mails that were not returned in April, 2023 and sent a certified letter to the Owners Association on May 8, 2023 advising them that they were in violation of the automatic stay and that a violation of these provisions may be considered contempt of court. A representative did reach out after receipt of the letter and said they would continue to withhold the keycard due to the delinquency in excess of \$5000 from prior years.

Section 362(a)(3)-(5) Automatic stay applies in part that “any act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate; any act to create, perfect, or enforce any lien against property of the estate; and any act to create perfect, or enforce against property of the debtor any lien to the extent hat such lien secures a claim that arose before the commencement of the case under this title.”

The Lake Buckhorn Property Owners Association have violated the automatic stay by requesting payment from pre-petition periods, continuing to access interest and fees on those amounts, and withholding the key card to get into the main gate. They have interfered with the Debtors enjoyment of their property. Due to these violations the Debtor has incurred actual damages, excessive wear and tear on his vehicles, additional transportation expense each day and attorneys fees to bring this action. Further each time they come into the secondary gate, they have to call to be let in and the employees of the associations do not hide their contempt of the Debtor which has caused emotional distress and frustration.

Creditor’s actions constitute a blatant violation of federal law. Debtors request an order finding them in Contempt of Court for violating the automatic stay. Debtor’s request actual damages to be determined at an evidentiary hearing or to be submitted for approval if no objections by the creditor. Debtors also request appropriate sanctions or punitive damages if the Court finds this will help deter the Associations future behavior to discourage Creditor from performing similar misdeeds in the future. Debtors are also requesting the Creditor to pay reasonable attorney’s fees and costs pursuant to 11 USC 362(k) for the inconvenience. Debtor also prays for such other relief as may be just and appropriate.

Respectfully Submitted:

/s/Nicole L. Rohr  
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Counsel for Debtors

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Debtors.	)	

**NOTICE OF MOTION FOR CONTEMPT**

Debtors Joshua Felton have filed papers with the court to find Lake Buckhorn Owners Association n in contempt of court for violating the Automatic stay.

**Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have any attorney, you may wish to consult one.)**

If you do not want the court to grant the motions, or if you want the court to consider your views on the motion, then on or before **September 12, 2023**, you or your attorney must:

File with the court a written response, explaining your position, and request a hearing, at:

**U.S. Bankruptcy Court,  
Ralph Regula U.S. Courthouse,  
401 McKinley Ave SW, Canton, OH 44702**

If you mail your response to the court for filing, you must mail it early enough so that the court will **receive** it on or before the date state above.

You must also mail a copy to:

Nicole L. Rohr-Metzger  
Thrush & Rohr, L.L.C.  
4930 Hills & Dales Rd., NW  
Canton, Ohio 44708

Dynele Schinker-Kuharich  
Office of the Chapter 13 Trustee  
200 Market Avenue North Ste LL30  
Canton, Ohio 44702

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief.

Date: August 22, 2023

Signature: /s/Nicole L. Rohr  
Name: Nicole L. Rohr  
4930 Hills & Dales Rd NW  
Canton, Ohio 44708

### **CERTIFICATE OF SERVICE**

I, Nicole L. Rohr-Metzger, hereby certify that a true and accurate copy of the foregoing was sent by regular US Mail, postage prepaid, this August 22, 2023 to the following individuals:

Joshua Felton  
7677 Arbon Dr  
Millersburg OH 44654-9537

Lake Buckhorn Property  
Attn Officer  
1817 SR 83 Unit 332  
Millersburg OH 44654

I, Nicole L. Rohr-Metzger, hereby certify that a true and accurate copy of the foregoing was electronically transmitted on or about August 22, 2023 to the following who are listed on the Court's Electronic Mail Notice List:

- Nicole L. Rohr-Metzger    nicole@thrushandrohr.com,  
[office@thrushandrohr.com](mailto:office@thrushandrohr.com); [thrushrohr@gmail.com](mailto:thrushrohr@gmail.com)
- Dynele L Schinker-Kuharich  
DLSK@Chapter13Canton.com, [dschinkerkuharich@ecf.epiqsystems.com](mailto:dschinkerkuharich@ecf.epiqsystems.com)
- United States Trustee    (Registered address)@usdoj.gov

/s/Nicole L. Rohr-Metzger  
Nicole L. Rohr-Metzger  
Attorney for Debtors